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November 9, 2022

Hon. Kenneth M. Karas  
United States District Court  
300 Quarropas Street, Chambers 533  
White Plains, New York 106001-4150

Re: *Catherine Kassenoff v. Allan Kassenoff et al.*  
7:22-CV-002162-KMK

Dear Judge Karas:

I represent the plaintiff Catherine Kassenoff in this action, and I am writing to update the court with respect to the status of the pending state court appeal referenced by the parties in the pending motion to dismiss.

On October 21, 2022, the Appellate Division for the Second Department of the New York Supreme Court entertained oral argument in the matter of *Allan Kassenoff v. Catherine Kassenoff*, appeal no. 2020-06187. This interlocutory appeal stemmed from Mr. Kassenoff's alleged acquisition and use of Ms. Kassenoff's electronic communications in state court matrimonial proceedings.

The case before your Honor alleges violations of the Electronic Communications Privacy Act to which the defendants have asserted *res judicata* and collateral estoppel as grounds for dismissal. Plaintiff posits that a decision in the pending appeal will likely address issues or questions bearing on this motion. Should the Appellate Division issue an opinion prior to the release of your decision on the motion to dismiss, it will be immediately brought to your attention.

Respectfully,

Harold R. Burke

HRB/st  
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